

ATTACHMENT A

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Claims 1-4 stand pending the present application. By this Amendment, Applicants have amended claim 1. Applicants respectfully submit that the present application is in condition for allowance based on the discussion which follows.

Claims 1-4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Baer in view of Yonemitsu et al (hereinafter "Yonemitsu"). The Examiner argues that Baer teaches the present method except for the use of oxygen to reduce the amount of nitric acid required. However, the Examiner alleges that Yonemitsu teaches the oxidation of ethylene glycol in the presence of nitric acid and oxygen to produce oxalic acid and therefore one of ordinary skill in the art would have been motivated to apply the oxidation process of Yonemitsu with the process of Baer.

In the response filed on August 21, 2003, Applicants distinguished the present invention from that of Yonemitsu by arguing that claim 1 of the present invention requires feeding oxygen into the system during the oxidation reaction. In the Office Action dated November 4, 2003, the Examiner agreed that the present invention is distinguishable from Baer and Yonemitsu in that neither teach the addition of oxygen at any other point other than at the beginning of the reaction. However, the Examiner interpreted claim 1 recited "feeding oxygen into the reaction during the oxidation reaction" as not excluding the introduction of oxygen before or simultaneous with the start of the reaction. In order to more clearly recite what Applicants believe to be the invention, Applicants have amended claim 1 to recite "feeding oxygen into the reaction system after the start of the oxidation reaction" and thus during the oxidation reaction,

i.e., as the reaction proceeds, as was argued previously. Applicants respectfully submit that since claim 1 now more clearly recites that oxygen is fed into the oxidation reaction after the start of the reaction, claim 1 is not taught or suggested by the prior art as the Examiner agreed in paragraph 6 of the November 4, 2003 Office Action.

In order to further distinguish the present invention from the prior art, Applicants have submitted an additional Declaration by one of the inventors of the present application further demonstrating that in the oxidation of a fluoroalkyl alcohol with nitric acid, if oxygen is fed before or simultaneous with the start of the reaction, the reaction does not proceed as is clearly shown in Comparative Experiment A in the enclosed Declaration. Comparative Experiment A is identical to the Example 1 of the specification of the present application in terms of starting material, equipment and reaction temperature and differs in that oxygen is fed at the beginning of the reaction.

In the oxidation of a fluoroalkyl alcohol with nitric acid, it is important to feed oxygen not at the beginning but in the course of the reaction. By starting with oxygen being fed at some point during the course of the reaction, the required amount of nitric acid can be reduced to a stoichiometric amount or less relative to the fluoroalkyl alcohol and the reaction pressure can be controlled. This is evident from Example 1 in the specification of the present application.

As previously noted, neither Yonemitsu nor Baer disclose or suggest feeding oxygen at any point other than prior to or at the beginning of the reaction not after the initiation of the reaction as currently claimed.

Based on the foregoing, Applicants respectfully submit that the present application is not obvious from Baer in view of Yonemitsu. Therefore, Applicants

respectfully request that the Examiner withdraw the rejection to claims 1-4 under 35 U.S.C. § 103(a).

In view of the foregoing, Applicants respectfully submit that the present application is in condition for immediate allowance.

END REMARKS